

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

DEC 29 1981

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code.

The information submitted indicates that you were organized for the purpose of ownership improvement, maintenance, and control of the "common elements" of [REDACTED] Townhomes. You collect fees and "special assessments" from townhome owners to pay for the maintenance of the townhome grounds, and the roofs and exterior walls of the townhomes. You maintain the grounds by having the grass cut, shrubs trimmed and replaced as needed. You are also responsible for the integrity of the roofs (and eventual replacement) and condition of the exterior walls. This includes the painting or staining of exterior wood and replacement of any deteriorated materials of construction.

The purpose contained in your Articles of Incorporation states that the "corporation is organized to provide for the ownership, improvement, maintenance, operation, preservation, regulation and control of the 'Common Elements' within a certain subdivided tract or parcel of real property lying and situated in the City of [REDACTED] and State of Texas, together with such additions thereto as may hereafter be brought within the jurisdiction of the Association as provided in the Condominium Declaration for [REDACTED], Section One... and to promote the health, safety and welfare of the residents within the Regime." "Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is a part of the Addition, including contract sellers, but excluding persons or entities holding title merely as security for the performance of an obligation, shall be a member of the Association."

The purposes contained in your By-Laws state that the Association is formed to govern the condominium property situated in the County of [REDACTED]. Your Condominium Declaration states that "Developer desires to establish a condominium regime under the Condominium Act of the State of [REDACTED]."

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer

Section 501(c)(7) of the Internal Revenue Code provides exemption for:

"Clubs organized for pleasure, recreation and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder."

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(7) Clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder."

Revenue Ruling 75-494, 1975-2, C.B. 214, holds that a club whose membership is limited to homeowners in a housing development and that provides recreational facilities that afford opportunities for fellowship and social counseling is exempt from Federal income tax under section 501(c)(7) of the Code. However, maintaining the grounds, and the exterior maintenance of your townhomes precludes you from qualifying for exemption under section 501(a)(7) of the Internal Revenue Code.

A few homeowners associations are able to qualify for exemption under section 501(c)(4) of the Code, which describes organizations that are engaged in promoting the general welfare of the community. These organizations must be serving a public rather than a private interest.

Revenue Ruling 74-17, 1974-1, C.B. 130, holds that an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance and care of common areas of the project, as defined by State statute, with membership assessments paid by the unit owners does not qualify for exemption under section 501(a)(4).

Revenue Ruling 74-99, 1974-1, C.B. 131, generally holds that a homeowners association to qualify for exemption under section 501(c)(4) of the Code (1) must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental, (2) it must not conduct activities directed to the exterior maintenance of private residences, and (3) the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public, not just for members and their guests.

Based on the information presented, we have concluded that you do not qualify for exemption under section 501(a)(7) or 501(a)(4) of the Code. As indicated in your application and organizational documents, your main intent is to benefit your members by providing maintenance of your facilities.

Accordingly, it is held that you are not entitled to exemption from Federal income tax under Section 501(c)(7) or 501(c)(4) of the Code and you are required to file Federal income tax returns on Form 1120.

As a homeowners association, you may qualify for treatment under Section 528 of the Code. You may elect such treatment for 1961 by filing Form 1120-H on or before the 15th day of the 3rd month after the end of your accounting period.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 502 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

Sincerely,


District Director

Enclosures:
Publication 502
Publication 502
Form 6018 (2)
Pre-addressed envelope